Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Federal-State Joint Board on Universal Service	CC Docket No. 96-45
1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms.	CC Docket No. 98-171
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990.	CC Docket No. 90-571
Administration of the North American Number Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size.	CC Docket No. 92-237 NSD File No. L-00-72
Number Resource Optimization	CC Docket No. 99-200
Telephone Number Portability	CC Docket No. 95-116
Truth-in-Billing and Billing Format	CC Docket No. 98-170

REPLY COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION AND BACKGROUND

On February 26, 2002, the Federal Communications Commission (FCC) released a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96-45 *et al.* The FCC's NPRM invites comments regarding a wholesale restructuring of Federal universal service fund (USF) carrier contribution system.

Specifically, the FCC's NPRM tentatively concludes that local exchange carriers (LECs) and commercial mobile radio service (CMRS) providers should contribute $1.00 per month for each residential customer's connection to the public telephone network. Multi-line business assessments would be rendered on a residual basis and assessments would be based on the bandwidth of the connection. Under the proposal, paging providers would also be required to provide $0.25 for each connection.

Other issues addressed by the NPRM include: whether carrier charges to end users to recover corresponding USF expenses should be capped, whether additional administrative charges should be allowed, and whether all carriers should be required to use an identical billing appellation for any Federal USF charge to end user customers. The FCC also requests comment on the appropriate treatment of customers on Lifeline programs.

The Public Utilities Commission of Ohio (Ohio Commission) hereby submits its reply comments responding to the FCC's February 26, 2002 NPRM in the above-captioned proceedings.

DISCUSSION

The FCC's NPRM notes that a wholesale restructuring of the Federal USF contribution system is warranted as a result of recent changes in end users' calling patterns over the past two years. Specifically, the FCC maintains that a "connection-based" assessment is now necessary as a result of traditional telecommunications users' migration to CMRS (wireless) and Internet telephony from traditional wireline/IXC interstate usage. NPRM at ¶¶ 9 through 20.

The Ohio Commission maintains that the only way to ensure that the intrastate jurisdiction in not subsidizing the FCC's universal service programs is for the FCC to maintain its USF assessments based on interstate usage. That is, assessments rendered on traditional telecommunications carriers' *interstate* revenues (and corresponding assessments to end users based on their interstate usage) is the only way to ensure that those customers using the interstate telecommunications network are funding the FCC's programs. Under the FCC's connection-based proposal, end user customers will be billed equally for interstate programs regardless of interstate usage. Moreover, under the FCC's proposal, interexchange carriers, the principal provider of interstate telecommunications services, will no longer be required to contribute to the fund. The Ohio Commission maintains that these proposed changes to the Federal USF contributions mechanism are both unwarranted and unreasonable. Also, the Ohio Commission submits that the FCC's proposal is particularly harmful and unfair to those users that have little or no interstate usage because it disproportionately places the burden of interstate USF recovery on these users, whether they have any interstate usage or not. Specifically, the FCC's proposal will result in a disproportionate reallocation of federal USF expense to the intrastate jurisdiction. Expressed another way, local exchange end users would be required to disproportionately support programs under the Federal jurisdiction.

The Ohio Commission does not believe that changes in end users' calling patterns necessitate a wholesale restructuring of the FCC's USF contribution mechanism. As opposed to instituting a per-connection charge, the Ohio Commission maintains that the FCC should reapportion its revenue-based carrier assessments to reflect changes in calling patterns. That is, the Ohio Commission maintains that the FCC should increase its assessments to CMRS providers (including paging services) to reflect more accurately the recent trend of increased interstate calling over wireless networks.

Moreover, under the Ohio Commission's proposal, USF assessments based on interstate revenues must continue to be rendered to IXCs. The Ohio Commission maintains that the FCC's proposal is illogical in that IXCs, the prevalent provider of *interstate* services, would no longer be required to contribute to the *Federal* program. The Ohio Commission finds support for its position on this matter in SBC's comments which reflect that the FCC should not adopt the IXCs' self-serving proposal that would virtually eliminate their contributions to the interstate USF. Like SBC, the Ohio Commission notes that section 254(d) provides that every telecommunications carrier that provides interstate telecommunications service shall contribute to universal service on an equitable and nondiscriminatory basis. Consequently, the FCC does not possess the requisite authority to abrogate the IXCs' obligation to support the USF appropriately. The Ohio Commission also submits that the FCC's proposal to establish a per-connection fee, which will be billed ultimately to end users, is tantamount to charging the local State jurisdiction for funding Federal programs. On a related matter, the Ohio Commission further supports the California Public Utilities Commission's (California's) observation that the FCC's proposal would result in a "double hit" in those States that have already implemented an intrastate universal service program, where corresponding expenses are already recovered through charges on end user customers' bills.

In addition to adjusting its assessments on interstate revenues to reflect changes in calling patterns, the Ohio Commission maintains that the FCC should make several additional amendments to its current USF assessment policies to ensure end user customers are adequately protected from unscrupulous billing practices. In particular, consistent with the FCC's proposal, the Ohio Commission agrees that uniformity in labeling would better enable consumers to understand the charges and provide them a basis for comparison among providers. Consequently, all carriers (including CMRS, IXCs, paging services and LECs) rendering USF charges to end user customers intended to recover Federal assessments should be required to adopt uniform labels for charges resulting from federal USF assessments. The Ohio Commission further agrees with the FCC that such an undertaking would help to ensure consistency and understandability for consumers. That is, uniformity in labeling would better enable consumers to understand the charges and provide them a basis for comparison among providers' charges.

Concerning carrier charges to recover Federal USF assessments, the Ohio Commission maintains that the FCC should impose adequate regulatory oversight to ensure that carriers are not generating cash flows that exceed the amount of monies necessary to recover their respective Federal USF assessments and reasonable expenses. The Ohio Commission agrees with those commenters who have indicated that, if the FCC adopts a uniform billing label for USF end user assessments, it would be a violation of truth-in-billing principles to allow the carriers to make a profit on the charge. The Ohio Commission submits that it may be necessary to allow carriers an additional nominal amount of revenue beyond actual USF assessments to recover expense for billing-and-collection and uncollectables. To avoid the issue of additional amounts necessary to allow for the recovery of uncollectables, the Ohio Commission maintains that the FCC should adopt California's and NASUCA's recommendation that USF assessments should be rendered on revenues that are actually collected as opposed to the current system where charges are imposed on customers for the previous quarter's revenues. Adopting this approach will provide the involved carriers with some regulatory certainty regarding their obligations to provide support to the fund. That is, if collected revenues decrease as a result of lower customer usage, price decreases, or uncollectables the carriers' obligation to provide contributions to the fund will remain constant.

Notwithstanding the Ohio Commission's opposition to the FCC connection-based assessment proposal, the Ohio Commission maintains that no Lifeline subscriber, either CMRS or local wireline exchange, should be rendered carrier charges for the Federal USF. The Ohio Commission maintains that it is antithetical to the concept of Lifeline to render USF support charges on the same customers that the program is intended to assist.

CONCLUSION

The Ohio Commission thanks the FCC for the opportunity to file reply comments in this proceeding.

Respectfully submitted,

On Behalf of the
Public Utilities Commission of Ohio

Steven T. Nourse
Assistant Attorney General
Public Utilities Section
180 E. Broad St., 9th Floor
Columbus, OH 43215
(614) 466-4396
(614) 644-8764